

Behavioral Sciences Regulatory Board
Board Meeting
DRAFT MINUTES
May 10, 2021

Call to Order. The meeting was called to order by Chair Deb Stidham at 10:00 a.m.

I. Roll Call.

Board Members. Board Members present by Zoom: Deb Stidham, Leslie Sewester, David Anderson, Danielle Johnson, Mary Jones, Jacqueline Lightcap, Johnna Norton, Bruce Nystrom, Andrea Perdomo-Morales, Laura Shaughnessy, Ric Steele, and Carolyn Szafran.

BSRB Staff. BSRB Staff present by Zoom: David Fye, Leslie Allen, Cindy D’Ercole, and Ashley VanBuskirk. Janet Arndt, Laine Barnard,

Guests. Cheri Koochel and Tammi Lee

II. Agenda Approval. Leslie Sewester motioned to approve agenda as written. David Anderson seconded. The motion passed.

III. Minutes Approval from previous meetings on March 8, 2021; March 10, 2021; March 15, 2021; and April 2, 2021.

- Deb Stidham, Chair of the Board, noted a typographical error in the minutes from the Board meeting on March 8, 2021. Mary Jones moved to approve the minutes with an amendment to correct the error and Jacqueline Lightcap seconded. The motion passed to approve the minutes as amended.

- Mary Jones moved to approve the March 10, 2021 minutes as written and Johnna Norton seconded. The motion passed.

- Mary Jones moved to approve the March 15, 2021 minutes as written. Andrea Perdomo-Morales seconded. The motion passed.

- Leslie Sewester moved to approve the April 2, 2021 minutes as written. Carolyn Szafran seconded. The motion passed.

IV. Public Comments. Cheri Koochel, President of the Kansas School Social Work Association (KSSWA), provided public comment regarding concerns about certain school districts hiring unlicensed persons functioning in a social work role, hiring Licensed Bachelor Social Workers performing functions outside their scope of practice, and title protection for social workers. Ms. Koochel requested a letter be drafted by the BSRB on behalf of the Board and that this letter be provided to the Kansas State Department of Education on the topic of scope of practice of social workers and title protection, recommending that a master’s level social work degree be recommended as an entry level qualification for a school social worker positions and that certain levels of social workers be hired for certain types of roles. Leslie Allen, Assistant Director for the

BSRB, noted that the social work statutes do not specify which roles can be performed by which type of social work licensee, other than regarding diagnosis and training, so the statutes are silent regarding some of the recommended content in the letter requested by Ms. Koochel. After extensive discussion on several issues, members of the Board did not direct staff to draft a letter, but discussed that Ms. Koochel may want to consider working with an association, such as the National Association of Social Workers, to see if that entity might wish to address these topics with their members.

V. Consideration of Proposal for Application Review Services. Tammi Lee, Vice President for Credentialing and Education Business Services and Partnership Division, presented information about the Center for Credentialing and Education (CCE) performing the review of non-Center for Accreditation of Counseling and Related Educational Programs (CACREP) applicants, reviewing materials of applicants, and submitting recommendations to the Board.

VI. Executive Session. Mary Jones moved that pursuant to K.S.A. 75-4319(b)(2), the Board recess into executive session for 45 minutes and reconvene the open meeting at 11:55 a.m. The meeting will be reconvened remotely by conference call at 1-877-278-8686, PIN 327072, and at the link to the Board's YouTube channel as stated in the notice of meeting that was sent to individuals who requested notice and published on the Board's website: ksbsrb.ks.gov. The justification is consultation with the Board's legal counsel, Assistant Attorneys General Janet Arndt and Laine Barnard, that would be deemed privileged in the attorney-client relationship. The subjects to be discussed in the executive session concern issues with proposed contracts and requirements for post-graduate supervision hours. Board staff who are included as the client in the executive session are David Fye and Leslie Allen. Laura Shaughnessy seconded. The motion passed.

The Board meeting was reconvened after the conclusion of the Executive Session.

VII. Executive Director Reports. David Fye, Executive Director for the BSRB, reported on the following items:

- **BSRB YouTube Channel.** The BSRB YouTube channel was launched in January of 2021 to provide increased public access to meetings of the Board and Advisory Committees in a more secure manner. Currently, 18 videos have been streamed or uploaded on the BSRB YouTube channel, which have been viewed a combined 322 times.
- **Agency Revenue and Expenditures Update.** The fiscal year will end June 30, 2021. Overall, revenue appears to be coming in close to previous estimates. Expenditures are projected to be higher than revenue for the year, partially due to Board's previous action to lower licensure fees in an effort to decrease the ending balance of the fee fund. Expenditures are estimated to be lower than previously estimated, partially due to savings related to the pandemic. Given the projected balance in the agency fee fund, the agency is financially secure.

- **COVID-19 Vaccines for BSRB Staff Members.** COVID-19 vaccines were made available to all state employees and the vaccine is still available for all staff that would like to receive it.
- **Technology Upgrades.** Due to the age of existing equipment, we replaced three computers in the office with new laptops and docking stations. Additionally, work cell phones were purchased for the Executive Director and Assistant Director, and staff members now have the ability to call applicants while working from home though their computers using Jabber Technology.
- **Legislative Updates.**
 - o **BSRB Budget.** The agency's budget was approved by the Legislature for FY 2021, FY 2022 and FY 2023.
 - o **HB 2066 – New Licensing Specialist Position.** In accordance with the passage of HB 2066, the Legislature increased the agency's expenditure authority to allow for the hire of a half-time staff member in FY 2022 to assist with reviewing licensure applications. While the agency requested this expenditure authority and position going forward after FY 2022, the Omnibus appropriations bill did not include the expenditure authority or the part-time position for FY 2023, so the agency will need to request this funding and position as a supplemental request for FY 2023 when the revised budget estimate is submitted in mid-September.
- **Regional and National Meetings and Speaking Engagements.** The Executive Director noted, in an effort to become more educated on state and national issues affecting the professions regulated by the BSRB, he has been attending as many regional and national meetings from professional associations as his schedule will allow. He noted his attendance at meetings on March 17, March 25, March 26, April 9 and 10, April 15, April 22, April 23, April 30, and May 1. The Executive Director took part in speaking engagements on March 9, April 20, and April 28. More information on the specific meetings and events is included in the official Executive Director's report in the Board meeting packet.
- **Multi-State Compacts.** The Executive Director noted he has become aware of a proposed multi-state compact for professional counselors which was reviewed at a recent Professional Counselor Advisory Committee meeting. Also, on May 20, a kickoff meeting has been scheduled to begin the work on a compact for social work, which the Executive Director has registered to attend.
- **Training for New Board Members.** The Association of Social Work Boards (ASWB) is offering training for new Board members on June 10 and 11.
- **Off-Site Board Planning Meeting.** The annual off-site Board meeting is scheduled to take place on September 26 and 27, 2021, in Olathe, KS. Rooms have been blocked and confirmations will be made closer to the date of the meetings.

VIII. Staff Reports. None.

IX. New Business.

- **Governor's Executive Order 21-22 Concerning Expiration of Occupational Licenses.** The Executive Director stated that during the pandemic, a state of emergency was declared and the Governor issued a series of executive orders which

required regulatory boards to delay enforcement of expiration of professional licenses which had expired during the pandemic. After the most recent extension was put into place, the Governor issued an executive order providing more flexibility for agencies to begin enforcing the expiration of these licenses, if 15-day notice is provided. The extension of the state of emergency is set to expire May 28, 2021. The Executive Director stated that while delaying the enforcement of expired licenses was helpful for licensees during the early stages of the pandemic, he has heard that other regulatory agencies are requesting authority to return to enforcing expired licenses. He noted that licensees have experienced confusion in knowing when they need to renew their licenses, when to obtain continuing education hours, and there is value in consistent collection of revenue to ensure the agency can fulfill its' statutory duties. The Executive Director asked if the Board would like to return to enforcing expiration of licenses after March 28 and if the Board could clarify that this would continue even if the disaster was extended past that date. Ric Steele moved that pursuant to Executive Order 20-22, the Board instructs BSRB staff to notify licensees whose licenses expired during the pandemic that their licenses would be officially expired after May 28, 2021 and they would remain expired even if the disaster was extended past May 28, 2021. Mary Jones seconded. The motion passed.

- **Person-to-Person Supervision Attestation During the Pandemic.** Mary Jones motioned that the Board direct staff at BSRB to change the attestation under the new requirements in accordance with HB 2208 for all applications on or after May 6, 2021. David Anderson seconded. The motion passed.
- **Temporary Regulations in Accordance with HB 2208.** Mary Jones motioned that the Board direct staff to begin the process of working on temporary regulations in consideration of HB 2208 for all necessary changes on or after May 6, 2021. David Anderson seconded. The motion passed.
- **Consideration of Continuing Education Requirements in Diversity, Equity and Inclusion.** The Executive Director noted that this topic has been discussed by several of the professions at national association meetings. Several states are considering statutory changes to include a certain number of continuing education hours in diversity, equity, and inclusion. Several advisory committee chairs indicated their advisory committees discussed this topic and noted support for making changes in this area. The Executive Director noted a change to continuing education would require statutory changes so the earliest this change could take place would be following the next legislative session if this is something they plan to include in continuing education requirements. Advisory committees were asked to continue discussion on this topic and the Board members noted plans to discuss this topic further at the off-site Board meeting in September.
- **Review and Consideration of Continuation of Licensing Database Agreement.** Mary Jones moved to direct the Executive Director to work on the terms of the agreement and to grant authority for the Executive Director to execute the agreement on behalf of the Board. Leslie Sewester seconded. The motion passed.
- **Consideration of Contract with Licensing Review Company.** The Chair asked if the Board wished to consider discussion on potentially contracting with a company for the review of certain licensure applications. Jan Arndt, Assistant Attorney General, noted the Board may be able to move forward with the review of some

applications in a closed session under the Kansas Administrative Procedures Act (KAPA). Leslie Sewester moved to amend the agenda to add a discussion item of consideration of further contract negotiations with a company to perform reviews of certain licensure applications. Mary Jones seconded the motion. The motion passed and the agenda was amended. The Chair asked if the Board wished to consider possible action regarding an agreement with the company which provided information to the Board on application review services. Board members discussed whether the method described by the company would be sufficient for the Board's consideration of applicants. The contract currently being reviewed would be limited to professional counselor licensees. Leslie Sewester moved to direct BSRB staff to move forward with contract negotiations to attempt to reach an agreement in consultation with legal counsel for the Board. Mary Jones seconded the motion. The motion passed.

X. Old Business.

- **Records of Deceased Practitioners.** The Executive Director noted that the statutes and regulations of the BSRB do not include language mandating that solo practitioners have a plan in place for who would become custodian of their records should a solo practitioner pass away unexpectedly. Chairs of several of the advisory committees noted that their advisory committees had discussed this topic, including the benefit of asking practitioners to identify who would assume responsibility for their records, should they pass away unexpectedly and there is not a facility or other entity who would maintain their records. Board members discussed that several advisory committees planned to continue discussions on this topic at their upcoming meetings and it was also noted that this subject could be a topic for discussion at the September off-site Board meeting in Olathe.
- **Consideration of Changes to “In Residence.”** The Executive Director noted the Board has received questions from individuals asking if the Board would consider making changes to statutes and regulations on residence requirements relating to educational qualifications for the professions under the BSRB. The Executive referenced past Board direction to request feedback from representatives from Kansas colleges and universities on the topic of whether changes should be made on the topic of residence requirements. The Executive Director referenced a packet of material included Board meeting materials, which included feedback from several individuals at colleges and universities. The Chair noted that Board members should review this information and this subject would be a good discussion topic for the off-site Board meeting in Olathe in September.
- **Review of Legislation and Considerations for Implementation.**
 - a. **HB 2208 General Provisions** – The Executive Director noted HB 2208 was originally requested by the BSRB and the final version of the bill included 5 or 6 other bills amended into it. In conference committee, the implementation date was changed to be upon publication of the Kansas Register, and the bill was published in the Kansas Register on May 6, 2021. The bill changes the statutes, but regulations will need to be modified. The Executive Director received confirmation from the Board that, consistent with the direction of the Board when similar changes were made to the social work profession following the 2019

Legislative session, approved training plans will not need to be modified in response to the reduction in hours in HB 2208. Staff of the BSRB were directed to send an email to licensees and post a message to the Board's website summarizing the provisions in HB 2208 and explaining how implementation of HB 2208 will affect licensees and individuals seeking licensure.

- b. **HB 2208 Out-of-State Temporary Permits** – The Executive Director summarized the changes made to out-of-state temporary permits including in HB 2208. The Executive Director asked the Board, given the significant changes between the previous approval process and the new terms for these permits, whether individuals with an existing permit would automatically qualify for the additional days under the new out-of-state temporary permit. The Board discussed that the approval process and terms of the out-of-state temporary permits had changed so significantly, that individuals currently authorized for an out-of-state temporary permit would practice under the original terms through the end of the year, but if those individuals wished to practice under the new terms, and receive the new benefits under HB 2208, those individuals would need to submit materials to meet the new qualifications and pay the new fee for the permit.
- c. **HB 2208 Extenuating Circumstances.** The Executive Director noted that HB 2208 authorizes the BSRB to waive the face-to-face supervision requirement “upon a finding of extenuating circumstances.” It was noted that a definition of extenuating circumstances already exists in the application regulations, but clarity was sought from the Board whether that definition should apply to the licensure regulations. The Board discussed that extenuating circumstances could be determined prior to needing to waive the face-to-face requirement or later if extenuating circumstances existed due to an emergency and therefore had not been pre-approved. The Board delegated to the Executive Director the authority to determine what would qualify as an extenuating circumstance. The Board directed the Assistant Director to draft language on the definition of extenuating circumstances for this context for consideration at the next Board meeting.
- d. **HB 2066** – The Executive Director noted HB 2066 concerns expedited licensure of military servicemembers, military spouses, and other select individuals. The bill is effective upon publication in the statute book, which is anticipated to be in July. The Executive Director noted he is working with representatives from the Board of Healing Arts to ensure that the requested data in the bill will be tracked and noted that more information on HB 2066 will be brought to the Board at the next meeting.
- e. **SB 170 (Previously HB 2209)** – The Executive Director provided an update on SB 170, which includes a multi-state compact for licensed psychologists known as PSYPACT. The bill passed the Legislature with an effective date of January 1, 2022. The bill is currently awaiting action by the Governor. The Executive Director referenced a question previously asked of BSRB staff, seeking the average amount of BSRB staff time to investigate and handle a complaint against a licensed psychologist. Upon examination of recent complaints, investigatory staff of the BSRB reported an average complaint against a licensed psychologist takes about 9 hours to investigate.

- XI. Complaint Review Committee Report.** The Complaint Review Committee met in April. Bruce Nystrom, Chair of the Complaint Review Committee (CRC), provided a brief report on the number of Reports of Alleged Violations (RAVs).
- XII. Professions Reports.**
- A. Psychology.** Ric Steele noted that the committee met April 13, 2021 and discussed a continuing education requirement on diversity, equity and inclusion, disposal or archiving of records following death, and changes to supervision regulations.
 - B. Social Work.** Next meeting scheduled for May 18, 2021.
 - C. Professional Counseling.** None.
 - D. Master's Level Psychology.** David Anderson, Chair of the advisory committee, noted that the committee met and discussed a possible interstate compact and changes to post-graduate supervision. The advisory committee Chair and the Executive Director spoke on a panel at a recent symposium for the Kansas Association of Master's of Psychology (KAMP). The advisory committee also discussed adding another committee member. Next meeting is scheduled for June 17, 2021.
 - E. Marriage and Family Therapy.** Mary Jones, Chair of the advisory committee, noted the committee met April 30, 2021, and discussed changes in supervision hours, continuing education requirements, and terms of committee members. Next meeting scheduled for June 25, 2021.
 - F. Addiction Counseling.** Deb Stidham, Chair of the advisory committee, noted that the committee will meet next June 18, 2021.
 - G. Behavior Analysis.** None.
- XIII. Information on July Board Elections.**
- The Chair of the Board stated she will not be seeking re-election as Chair at the meeting in July. Leslie Sewester, the current Vice-Chair for the Board, was noted as willing to serve as the next Chair of the Board. The next Chair and Vice-Chair for the Board will be determined per statutory direction, at the July meeting.
- XIV. Adjourn.** Mary Jones motioned to adjourn the meeting. Carolyn Szafran seconded. The motion passed.